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Ending Discrimination: Positive Approaches for Government

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ENDING DISCRIMINATION: POSITIVE APPROACHES FOR GOVERNMENT

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WHEN A CLUB, organization or association has a knotty problem, it usually refers it to a committee. This has been found the most effective way to "put off until tomorrow" that which should have been done yesterday. The government is not different, except that in addition to committees, it can create departments, divisions, commissions, councils and agencies. In New York State, while the main job of ending discrimination has been given to a division, the State Division of Human Rights, there is hardly a subdivision of State Government that does not have some clause, section, article or other mandate dealing with the elimination of discrimination, both within the agency and/or in its dealings with the general public.

The completeness of governmental pronouncements on eliminating discrimination is as it should be. The urgency of securing and maintaining equal civil rights for all persons can be seen in serious conflicts in dozens of cities; in violence on scores of campuses; in hundreds of minor conflicts and in the type of unemployment, underemployment, poor housing and other lacks that have created the extremely critical domestic crisis we face today. If the government is to guide citizens toward solutions of these problems, it can best do so by remembering the wise old adage and first removing "the mote" from its own eye, by bending every effort toward ending discrimination.

There are many reasons, however, to doubt that pronouncements are being translated into practices or avowals to action as fully as present times and conditions warrant. Various agencies have attacked the problem of discrimination with differing degrees of commitment,

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ranging from those that have established a unit or committee on human rights or human relations, to those that by denying or ignoring the existence of discrimination have failed to come to grips with the problem.

The same uneven type of approach found in New York State can be found if one takes a look at the national picture. It is significant that 42 of the 50 states have some type of anti-discrimination law.[1] Three other states, Arkansas, Georgia, and Louisiana, have anti-discrimination laws involving age or sex, but not covering discrimination based on race, creed, color or national origin.

Of the 42 states having anti-discrimination laws, special agencies for the administration of the laws have been created in 27. The latest agency was established on May 26th of this year. The first of the agencies was created in 1943 to administer the law in Connecticut. Two years later the New York State Commission Against Discrimination came into being; five more agencies were established in the forties; seven more in the fifties; and an even dozen were created between 1960 and 1967.

Almost all of the 42 states having coverage prohibit discrimination in employment and in public accommodations; only 28 of the 42 states prohibit discrimination in housing, and only 17 of the 27 states that have agencies to administer the law, have provisions covering housing discrimination. As may be expected, fewer of the southern states have housing discrimination laws. Discrimination based on race, color and creed is prohibited in the 42 states listed in Chart A. A few do not include a provision against discrimination based on national origin.

It would be difficult, if not impossible, to gauge the effectiveness of the different state agencies. It is fairly obvious, however, that in some states they have not been given the authority or the tools with which to do an effective job. In some states where voluntary compliance is not forthcoming, there are no enforcement procedures available. On the other end of the scale there is the state of Oregon where a violator may face a fine and/or imprisonment.

If the number of professionals on staff is an indication of commitment, Nebraska and Nevada will have to vie for last place, each having only one professional. By the same yardstick, New York would head the list with 114 professionals. It can hardly be said that America is giving a number one priority to the elimination of discrimination, if we measure commitment by the number of persons involved in the task. The states having separate agencies to administer anti-discrimination laws employ only 509 professional staff members.

Fortunately, the elimination of discrimination does not rest solely on state governments. In addition to the federal government which is active primarily through the Equal Employment Opportunity Commission and the Civil Rights Commission, many cities, towns, villages and counties have passed ordinances or resolutions outlawing discrimination in employment and/or housing. In all probability New York City's Commission is stronger in all respects than most state agencies. None of the other local agencies

[1] *See* Chart A.

is as strong numerically, has as large a budget or as many enforcement powers as the New York City Commission on Human Rights. An interesting factor is the high percentage of local laws that provide for fines and/or prison sentences. In all there are 222 local areas covered by some type of anti-discrimination law. The majority of these cover employment discrimination, a smaller number cover housing and public accommodation discrimination.

That ending discrimination is no easy job can be seen by the fact that despite hundreds of laws, the job is by no means complete. However, it is a fact that the stronger the anti-discrimination law, the better the compliance. Laws to end discrimination cannot remain static. It is necessary to be ever vigilant of ways and means of strengthening anti-discrimination laws on the books and insisting that those charged with administering the law do so in earnest and with vigor.

To better understand New York State's efforts to eliminate discrimination using legislation as a positive approach, it is advisable to trace the State's efforts in this direction from 1945 until the present.[2]

On January 3, 1945, Governor Thomas E. Dewey included the following passage in his message to the Legislature:

> During the closing days of the last session of the Legislature certain bills were introduced, designed to eliminate religious and racial discrimination in various phases of our society, particularly in the field of employment. I addressed a special message to your Honorable Bodies, calling attention to the great significance of the problem and the necessity for most careful study and suggesting the creation of a commission to undertake such study and to make recommendations at this session of the Legislature.
>
> That suggestion was followed and the Temporary State Commission Against Discrimination is prepared to make vital recommendations with carefully drawn legislation by February 1. I cannot too strongly emphasize either the importance or the necessity for considered action on the recommendations of that commission. The need for action in this field of human relations is imperative.
>
> We all know that the problems in this field may not be solved by means of statutory enactments alone. All of our people must be imbued with the urgency and the will and the understanding to bring cooperation and equality into the relations among our fellow human beings. To do this, education both of child and adult is required. The right atmosphere in the home, the church and the school is all important. Much can be accomplished to accelerate the process of education and understanding by voluntary action and by sound governmental leadership in initiating and encouraging such voluntary action.
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> I cannot too strongly urge that, after the commission has rendered its report, action should be taken to place our State in the forefront of the nation in the handling of this vital issue.

It can be seen that the emphasis at this point was intended to be on education and persuasion. More recent pronouncements are couched in much stronger language. As for example, Section 290.3 of the Human Rights Law which states:

> The legislature hereby finds and declares that the state has the responsibility to act to assure that every individual within this

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[2] *See* Chart B.

> state is afforded an equal opportunity to enjoy a full and productive life and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. A division in the executive department is hereby created to encourage programs designed to insure that every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the state; to encourage and promote the development and execution by all persons within the state of such state programs; to eliminate and prevent discrimination in employment, in places of public accommodation, resort or amusement, in educational institutions, in public services, in housing accommodations and in commercial space and to take other actions against discrimination as herein provided; and the division established hereunder is hereby given general jurisdiction and power for such purposes.[3]

Despite the fact that the anti-discrimination law was steadily strengthened by legislative amendments after 1945, its effectiveness did not seem equal to its legislative potential. There were many who felt that the law was not strong enough and that it was not being implemented to the fullest possible extent, or even to an acceptable degree. Some complained that cases brought to the Commission took far too long to be handled; that the cases resulted in mild, innocuous penalties for violators; that few persons received either the apartment or the job they sought; that the Commission was oriented much more to the respondent than to the complainant; and that complainants were discouraged and disheartened by obstacles placed in their way by the Commission. Such criticisms mounted to the point where in March, 1967, Governor Rockefeller ordered a study of the State Commission for Human Rights to be made by the Division of the Budget headed by Dr. T. Norman Hurd.

The committee, known as the Hurd Committee, was instrumental in reorganizing as much of the Commission as could be reorganized without a change in the law. Based upon the findings of the Hurd Committee study, the Governor appointed a Committee to Review New York Laws and Procedures in the Area of Human Rights to make a more comprehensive inquiry. This committee was appointed on August 10, 1967, and was headed by Eli Whitney Debevoise. It was composed of 24 citizens named by the Governor "to reexamine the Laws, the Administrative Machinery and the procedures built to the specifications of yesterday's problems . . . in the light of today's need."

The Committee held open hearings throughout the state; interviewed staff members and reviewed Commission activities, procedures and reports. It was the Committee's feeling that the Commission had originally adopted a low-key educational approach to human rights problems; that conciliation and persuasion were stressed over vigorous enforcement and that although this approach was originally a good one, that it was not adequate for 1968. The Committee recommended a

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[3] N.Y. EXEC. LAW § 290.3 (McKinney 1968).

complete reconstruction of the law and did in fact submit a proposed Human Rights Law. Partly because of the lateness of the submission of the Committee's report in relation to the 1968 legislative session and perhaps because of the wide scope of the proposed law, it was submitted as several different bills. While the majority of the bills were not passed, the most far-reaching, that which dealt with the overhauling of the structure of the Commission, was passed and became the Human Rights Law.

The salient changes were:

Laws of 1968, Chapter 958, effective July 1, 1968, replaced the State Commission for Human Rights with a State Division of Human Rights headed by one Commissioner, changed the name of Article 15 to Human Rights Law, revised the procedure of the agency and created a six-member Human Rights Review Board.

1. The name of the "Law Against Discrimination" is changed to the "Human Rights Law."[4]

2. The State Commission for Human Rights, consisting of nine Commissioners, is replaced by a Division of Human Rights, headed by a single Commissioner, appointed by the Governor with the consent of the Senate and holding office at the pleasure of the Governor.[5]

3. The purpose clause[6] of the statute is materially broadened. This allows greater implementation of the law by the Division even though there were no significant changes in the law's coverage.

4. The Law Against Discrimination provided that verified complaints filed with the Commission be assigned to an Investigating Commissioner for purposes of investigation, determination of probable cause and efforts at conciliation.[7] The Human Rights Law provides that these functions shall hereafter be performed by the Human Rights Division, *i.e.*, by staff employees.[8] The conduct of hearings on complaints which are not amenable to adjustment are heard before a single hearing examiner (not three Commissioners), and based on the record made at such hearings, the Commissioner of the Human Rights Division will issue his findings and order.

5. The Law Against Discrimination provided that a complainant whose complaint was dismissed by an Investigating Commissioner for lack of probable cause could apply to the Chairman of the Commission for review of the Investigating Commissioner's determination. The Human Rights Law provides for the creation of a separate and independent Human Rights Review Board (the name was changed to State Human Rights Appeal Board by Chapter 368 of the Laws of 1969) in the Executive Department, appointed by the Governor with the advice and consent of the Senate.[9] In addition to this independent review, which is available to either party, the rules of procedure of the Division permit either party to apply at any

[4] *Id.* § 290.1.
[5] *Id.* § 293.1.
[6] *Id.* § 290.
[7] *Id.* § 297.
[8] *Id.* § 295.
[9] *Id.* § 297.

time to the Commissioner for reopening of the case.[10] Thus permitting an internal review of the matter or granting an opportunity to present additional information.

6. Under the Law Against Discrimination, proceedings for judicial review or enforcement of Commission orders after hearing were brought in the supreme court, and appeals could be taken to the appellate division and the Court of Appeals.[11] Under the Human Rights Law, appeals from orders of the Commissioner shall be taken to the Human Rights Appeal Board.[12] Appeals from decisions of the Appeal Board and proceedings for the enforcement of any orders of the Commissioner which have been appealed to the Appeal Board, shall be brought directly to the appellate division.

7. Under the Law Against Discrimination, the Commission's power to apply to the supreme court for an injunction was limited to housing cases. Under the Human Rights Law the power of the Commissioner to apply for an injunction is applicable to all types of cases, if the Division determines that the respondent is doing or procuring to be done any act tending to render ineffective any order of the Commissioner.

8. Under the Human Rights Law, "[a]ny person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of appropriate jurisdiction for damages and such other remedies as may be appropriate." However, no person who has filed a complaint with the Division or any local human rights commission alleging an unlawful discriminatory practice, unless the Division has dismissed such complaint on the grounds of administrative convenience or for lack of jurisdiction, may institute suit in the courts or before another administrative agency based on the same grievance.[13]

9. Under the Law Against Discrimination there was no requirement that an Investigating Commissioner seek a complainant's consent to the terms of a conciliation agreement prior to consummation of such agreement. Under the Human Rights Law the complainant must be notified of the terms of a proposed conciliation agreement.[14] If he objects to said terms, the Division may execute the conciliation agreement; if it finds the terms to be in the public interest and, in its unreviewable discretion, it may dismiss the complaint for administrative convenience; or the Division may grant the complainant a hearing on his objections, or notice the complaint for hearing on all issues.[15]

Charts C through F outline various phases of the Commission-Division activities. The number of complaints filed in the various years of the Agency's existence shows a sharp and significant increase in the number of complaints filed in 1968 over those filed in the prior year. There is no doubt that a good bit of the increase was due to the publicity surrounding the change in the law. However, a significant

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[10] *Id.*
[11] *Id.* § 298.
[12] *Id.* § 297-a(6).
[13] *Id.* § 297.9.
[14] *Id.* § 297.3(b).
[15] *Id.* § 297.3(c).

portion of the change came about as a result of the activity of the new head of the Agency, Robert J. Mangum. Commissioner Mangum was appointed Chairman of the Commission in July of 1967, and had immediately set about the task of implementing suggestions made by the Hurd Committee and some of the changes that were expected to be made once there was a change in the law. When the new Human Rights Law providing for one Commissioner was passed, Commissioner Mangum was retained as the sole Commissioner of the Division of Human Rights.

Although the rate of the percentage of probable cause cases has not increased with the increase in cases in 1968, there is almost a doubling of the number of cases referred to public hearing. There are two reasons why so many more cases were referred to public hearing. First the complainant has the right to object to proposed terms of conciliation entered into by the Division and the respondent. Heretofore the conciliation agreement was signed by the respondent and the Division, and then a copy forwarded to the complainant. The complainant had no recourse other than an Article 78 proceeding[16] if he did not agree with the terms of conciliation. Second, the new law and the current policies within the Agency require that the terms of the conciliation agreement be more extensive than under the past legislation. Thus, some respondents may refuse to sign the agreement and the case must be referred to public hearing.

As mentioned before, implementation of the law is an essential approach to elimination of discrimination. In many ways the law can be made more effective by the policies of the Agency charged with its administration. For example, since 1965, the Human Rights Law (then the Law Against Discrimination) has contained the provision which permitted the Agency to initiate complaints.[17] For two years, however, no provisions were made to use this particular section of the law, and, in fact, there was no personnel assigned to make investigations which might result in the initiation of complaints. Shortly after Commissioner Mangum came to the Agency, he drafted personnel from other sections to form a small six-man unit which became the Special Investigations Bureau. The significance of the work of the Special Investigations Bureau can be seen in the fact that its investigations are not based on the complaint of an individual. Usually the result is that the respondent is willing to cooperate with the Division in drafting and instituting an affirmative action program aimed at increasing the number of minority group employees employed as well as upgrading minority group persons. That this approach is far more effective can be seen by the fact that in the first 23 cases reviewed some six months after their closing, it was found there had been a gain of 1,368 jobs for minority group persons.

Another area greatly strengthened by Commissioner Mangum was the area of communications. It is extremely important for the government to let its citizens know of its work in the area of human rights.

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[16] N.Y. CIV. PRAC. art. 78 (McKinney 1963).

[17] Law Against Discrimination, N.Y. EXEC. LAW art. 15 § 297 (McKinney 1969).

The efforts of the Division in the field of communications have been broadened to include one weekly T.V. program, several weekly radio broadcasts, not only in English but in Spanish and Yiddish as well, and increased communication with the public through press releases aimed at informing the public of the Division's activities and accomplishments.

In attempting to eliminate discrimination, it is most important to remember that the government itself is a large employer. In New York State more than 124,000 persons are civil service employees. In 1967, the New York State Civil Service undertook a sight survey of state employees and found that there was serious reason to question whether or not its policy of non-discrimination was being carried out. Looking at Chart G, it appears that the percentage of Negroes in civil service (12.4%) bears a good relationship to the fact that Negroes represent only 8.4% of the total population of New York State. However, of the 54 State agencies in New York, four had absolutely no Negroes and only 17 had 8.4% or higher. The inequality of employment opportunities is even more pronounced when one considers that of the 12.4% civil service workers who are Negroes 60.3% of the Negroes so employed are service workers.[18] Twenty-two of the 54 state agencies have no Negro administrators or professionals. The same is true of 34 agencies with regard to Puerto Rican administrators and professionals. To cope with this problem, Governor Nelson A. Rockefeller issued a directive in the latter part of 1967 in which he directed state agencies to remedy the situation. A program was begun in 1968 aimed at substantially increasing the number of Negro and Puerto Rican employees in civil service and in the higher levels of civil service employment. Statistics for the year 1968 are not yet available in order to measure whether or not there has been improvement. Although progress was being made, the rate was not sufficient to satisfy many Negro civil service workers.

There were sufficient complaints by Negro civil service workers, particularly in regard to promotional opportunities, to warrant holding a conference on the problem in September, 1968. That conference discussed the problem of minority group workers in civil service and made recommendations to improve conditions under which minority group persons are recruited and upgraded.

One area in which a great deal of difficulty seems to exist is in the qualifications required for certain jobs in the civil service system. Increasingly, the Division is calling upon private employers to make certain that the requirements for jobs are objective and job related. The same thing must be done within the government. A loophole, through which it has been found that minority group employees have been excluded from higher paying jobs within the government, has been provisional appointments. When job vacancies occur, very often the temporary appointments exclude the minority group worker, thus denying him the opportunity to gain the experience necessary to qualify for or pass the test for the job.

Further evidence as to the need for the state to review its own policies of non-

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[18] *See* Chart H.

discrimination can be seen in Chart I. This chart indicates that while 87.0% of Negroes and 78.5% of Puerto Ricans are competitive Civil Service employees, only 77.1% of the total Civil Service employee jobs are competitive. In the non-competitive, exempt, and labor categories where discretion and choice can play a part, it is to be noted that the number of Negro and Puerto Rican Civil Service employees is less than the general average.

Government agencies in many instances can dispense the services of their agencies so as to foster elimination of discrimination. The state government has some control over many units of housing because the housing has been built under its supervision with funds lent or guaranteed by some arm of government. Patterns of segregation, particularly in upstate areas, that were instituted when projects were first opened still remain in many cases.[19] Imbalance is particularly noticeable in smaller communities where there are two or three housing projects and one may be 90% white and the other occupied 90% or more by members of minority groups. Contrasted with the 65 projects, of which 52 show serious problems of imbalance, approximately 37 (as shown on Chart K) are considered integrated. It is difficult to reverse trends of segregation once established. However, improved assignment policies would prove effective in ending discrimination in public housing—which certainly ought to be a minimum example for government to place before the general public.

The New York State Employment Service is another government agency which can do much to eliminate discrimination. Although the employment service has a strict and pronounced policy against discrimination and does not accept discriminatory job orders, there are frequent complaints from persons of minority groups that the employment interviewers withhold some of the better jobs; and there are cases that the employment interviewers refer to the Division because prospective employers have made discriminatory job requests. In the former cases the Division handles the matter as it would a complaint against any alleged discriminatory employer. In the latter cases the Division has an agreement with the New York State Employment Service whereby if the Service is unable to resolve the matter it is referred to the Division for action. In just these two areas, housing and employment, it can be seen that the government can take vast steps in eliminating discrimination.

Not so long ago, a church group announced that it had established a policy against dealing with businesses that did not have an equal employment policy. Recently, too, a large, well-known department store announced that it had sent a letter to over 900 suppliers indicating that it would deal only with equal employment opportunity businesses. A similar provision exists in New York State by virtue of an executive order issued by Governor Rockefeller in September, 1963. The non-discrimination clause in New York public contracts provides that upon a finding by the State Division of Human Rights that the contractor has not complied with the clause, the contract may be forthwith canceled, terminated or suspended by the con-

[19] *See* Chart J.

tracting agency. This clause remains as yet untested. To make use of the clause there must be a positive finding of discrimination or a finding that the contractor has failed to take

> affirmative action to provide equal employment opportunities in recruiting job assignments, promotions, upgrading, demotion, transfer, layoffs or termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and job training. It also requires the contractor to take affirmative steps to obtain a similar agreement from the labor unions with which he has collective bargaining relationships.

These provisions, once affirmative action standards have been established, can prove extremely important in view of the vast sums of monies being spent by the State in public contracts. In just one endeavor, the New York State University at Buffalo, approximately $600,000,000 is contemplated to be spent over the next 10 years. In this operation it is anticipated thousands of construction workers, skilled and unskilled, will be employed. Inclusion of minority workers among these employees on an equal basis as to numbers and types of jobs will be essential.

Very often, a respondent engaged in a business where thousands of persons are employed will point with pride to statements of policy regarding non-discrimination or will proudly display a certificate of membership in some organization whose avowed goal is the elimination of discrimination. Sometimes, it comes as an unpleasant revelation that the lower echelon management staff is not carrying out the lofty principles of top management. So, too, in government it is necessary to see that the various branches of government are constantly prodded to take an active part in the elimination of discrimination.

The Debevoise Committee included in its proposed legislation a proposal to establish an Interdepartmental Committee on Human Rights. Instead, Governor Rockefeller issued Executive Order No. 27 on May 7, 1968, establishing an Interdepartmental Committee on Human Rights. The order specified the heads of certain agencies who were to be members of the Committee and appointed the head of the Human Rights agency as Chairman of the Committee. The Governor fixed as the general powers of the Committee:

> The Committee shall assist the Chairman of the State Commission for Human Rights in the formulation and coordination of plans, policies and programs relating to human rights of all State departments and agencies and to assure effective implementation of such policies, plans and programs by such agencies. The Committee shall have no executive or appointive duties. The Committee shall render to the Governor each year a written report of its activities and recommendations.

The Committee has not completed its first full year of operation, and has not rendered a report. However, the Committee has been organized and has accepted, as a prime task, implementing the non-discrimination policy of the state in the internal operation of the individual agencies.

It is virtually impossible to fully explore the subject of this article: Ending Discrimination: Positive Approaches for Government. The scope in this writing has been limited primarily to action that can and is

being taken by New York State and has not included discrimination based on age or sex. However, there are many other areas in which government can approach the problem. Any agency having to do with urban planning, code enforcement, school assignments, sanitary and health services, transportation or similar factors affecting the daily lives of the people, can and does determine the extent to which discrimination will be kept alive. By isolating a segment of the population, by depressing the standards by which they live or limiting their opportunities in any of dozens of ways, the government is aiding and abetting discrimination rather than causing its elimination.

Perhaps it is not only natural but right that when a community thinks in terms of urban renewal it attempts to get rid of its worst slums first. If however, as is so often the case, that is where its minority group population resides, it may be true, as alleged, "urban renewal equals Negro removal." Extreme care must be taken not only to decide where the minority group residents will live during the renewal process, but to build the kind and type of housing to which displaced persons may return.

In some communities it is fairly obvious that if building codes were to be enforced, many persons would be made homeless. This is a normal consequence of decades of neglect, and will continue to be the case if, through disinterest and lack of concern, hundreds and hundreds of housing units are permitted to fall into such disrepair that slumlords would prefer abandoning a building to repairing it.

It is no secret that many whites are first tempted to flee an integrating neighborhood when they note that the local schools are becoming predominantly Black or Puerto Rican. They fear that their child's education will be affected. Recognizing that trend, the government would be wise to forestall such flights by careful and skillful assignment of students, personnel, funds and services. Existence in a ghetto neighborhood of schools with reputations for excellence in special fields has seldom deterred or limited the attendance at such schools. Imagination and dedication on the part of school officials may be insufficient to reverse deteriorated situations, but should still prove timely in many areas where foresight and vision can help avoid future problems.

There may not be a community in all New York State that will admit to having sufficient facilities, funds and manpower to provide maximum or even adequate health and sanitary services for the entire community. Therefore, deployment of these services becomes an important factor. Where the poorest communities are the last to receive these services and receive a bare minimum, the expected result is that the deterioration of the neighborhood becomes visible in the streets, thus encouraging those who can to flee. The poor, clinging together in their poverty, are shut out from the mainstream.

Today we find many businesses, fleeing the congestion, confusion and taxation of large urban communities, are relocating in the suburbs. There they often settle in or near communities far removed from ghetto communities. If adequate transportation is not available, ghetto residents may be effectively excluded from job opportunities.

Further, where adequate transportation is not provided, a ghetto community may be cut off from inexpensive sources of good merchandise. The sales they read about or hear advertised on their local TV may be completely inaccessible to those who need bargains most.

Another way in which government can aid the elimination of discrimination through careful planning in the area of transportation has to do with deciding which communities will be served by new highways, which communities will be severed by new highways, and also, which communities will be sacrificed for new highways. Again it cannot be denied that good business judgment might require the cheapest and the worst housing to be eliminated to make room for a new highway, but, if that means that all or much of the only housing available to minority group persons will be destroyed, the government must not chart its course based solely on the cheapest route in terms of money and ignore the expense in terms of people.

At this moment in time, it may be much too late to write this article. It is apparent in our cities, on our campuses and now even in our churches that those who docilely awaited the elimination of discrimination through legislation, executive order and court decisions a few years ago, are now racing toward self-emancipation. And, indeed, the speed with which some are going is almost guaranteed to bring about the end of many good institutions, a diminution of goodwill and considerable destruction. It is possible that it is too late for the mere elimination of discrimination, even it if could be speedily accomplished, to either satisfy the demands of minority group extremists or grant equal opportunity to those who have been denied any opportunity for so long.

New approaches by the government will have to be taken. There are many employers, large and small, who can truthfully say that they have never discriminated against a person because of his race, creed, color or national origin. In fact, they "lean over backwards" to accept any qualified minority group persons. This sounds fine unless one is aware of the fact that such a business may have a 99% white group of employees and may do most, if not all, of its recruitment by "word of mouth" and by advertising in ethnic newspapers that do not service the Black or Puerto Rican community. The time may now be that the government through its agencies may have to require such a company to actively seek Blacks and Puerto Ricans and to limit its new hiring to these groups. The 1969 legislature has recognized the need to permit such preferential treatment and has passed a bill which will permit the Division to grant dispensation from the non-discrimination provisions of the law in the interest of fostering integration. The government will have to continue to recognize the need for revision of the laws to cope with current problems.

The government will have to make use of every law on the books in a most active way. It will no longer suffice for the government to wait for the aggrieved party to come forward. Government will have to ferret out the areas in which discrimination occurs and then act to end the discrimina-

tion—not job-by-job or apartment-by-apartment, but industry-by-industry and project-by-project.

The government will have to take a larger role in training and retraining minority group persons. It may be necessary to go out into the communities together with private industry to entice and encourage minority group persons to take advantage of such programs. It will be necessary to render much supportive assistance and to cut through much red tape in order that services already available, as well as those to be made available, are not drowned in the bureaucratic sea.

Recognizing that discrimination is the tree on which the ills of the disadvantaged flower, the present situation seems to demand, more than anything else, that doors of communication be opened; that a dialogue be set up between government and the minority groups bearing the burdens of discrimination; that the conversation between the two not be a rehashing of the causes of the problems or the cost of the cures; that no effort be made to decide who is to blame or how much guilt any group should bear. Nor should the dialogue be sidetracked by a discussion of why America's commitment in Vietnam or anywhere else prevents the government from acting to eliminate discrimination. Rather there should and must be an outline of priorities, a program of action and a detailing of positive approaches the government is taking to end discrimination now.

CHART A

	Agency[1]	Employment	P.A.	Housing
1. ALASKA		X	X	X
2. ARIZONA	Arizona Civil Rights Commission	X	X	
3. CALIFORNIA	California Fair Employment Practices Commission and California State Department of Education	X	X	X
4. COLORADO	Colorado Civil Rights Commission	X	X	X
5. CONNECTICUT	Commission on Human Rights and Opportunities	X	X	X
6. DELAWARE		X	X	
7. FLORIDA*		X (Public only)		
8. HAWAII		X		X
9. IDAHO**	Commission on Human Rights	X	X	X
10. ILLINOIS	Fair Employment Practices Commission	X	X	X
11. INDIANA	Indiana Civil Rights Commission	X	X	X
12. IOWA		X	X	X
13. KANSAS	Kansas Commission on Civil Rights	X	X	
14. KENTUCKY***	Kentucky Commission on Human Rights	X	X	X

CHART A (*Continued*)

	Agency[1]	Employment	P.A.	Housing
15. MAINE				
16. MARYLAND	Maryland Commission on Human Relations	X	X	X
17. MASSACHUSETTS	Massachusetts Commission Against Discrimination	X	X	X
18. MICHIGAN	Michigan Civil Rights Commission and Michigan Employment Security Commission	X	X	X
19. MINNESOTA	Department of Human Rights	X	X	X
20. MISSOURI	Missouri Commission on Human Rights	X	X	
21. MONTANA		X	X	X
22. NEBRASKA	Nebraska Equal Employment Opportunity Commission	X	X	
23. NEVADA	Nevada Commission on Equal Rights of Citizens	X	X	
24. NEW HAMPSHIRE		X	X	X
25. NEW JERSEY	Department of Law and Public Safety	X	X	X
26. NEW MEXICO	New Mexico Fair Employment Practices Commission	X	X	X
27. NEW YORK	New York State Division of Human Rights	X	X	X
28. NORTH DAKOTA		X	X	
29. OHIO	Ohio Civil Rights Commission	X	X	X
30. OKLAHOMA		State Employment		
31. OREGON		X	X	X
32. PENNSYLVANIA	Pennsylvania Human Relations Commission	X	X	X
33. RHODE ISLAND	Rhode Island Commission Against Discrimination	X	X	X
34. SOUTH DAKOTA			X	
35. TENNESSEE	Commission for Human Development	No Defined Coverage		
36. TEXAS		X		
37. UTAH	Industrial Commission of Utah	X	X	
38. VERMONT		X	X	X
39. WASHINGTON	Washington State Board Against Discrimination	X	X	X
40. WEST VIRGINIA	West Virginia Human Rights Commission	X	X	
41. WISCONSIN	Department of Industry, Labor and Human Relations	X	X	X
42. WYOMING		X	X	

[1] Where no agency is named the law is being administered by some branch of the government such as the Department of Labor.

* Advertising—Religion—P.A.

** May 26, 1969.

*** Housing if sold by brokers or salesmen.

CHART B

Year	Agency	Coverage
1945	State Commission Against Discrimination (Three Commissioners)	*To Eliminate and Prevent* Practices of discrimination in employment because of race, creed, color or national origin.
1952		**Amended to Prohibit* Discrimination in places of public accommodation, resort or amusement because of race, creed, color or national origin.
1955		*Amended to Prohibit* Discrimination in specified publicly-assisted housing accommodations because of race, creed, color or national origin.
1956		*Amended to Prohibit* Discrimination in further housing accommodations receiving publicly insured financing.
1958		*Amended to Include* Discrimination because of age as a basis for unlawful discriminatory practices in employment (only persons between 40 and 65 years of age). *Amended to Prohibit* Discrimination because of race, creed, color or national origin in use of facilities of educational institutions held out to be non-sectarian and tax-exempt.
1961		*Amended to Prohibit* Discrimination in commercial space and in specified housing accommodations without public assistance and expressly including real estate brokers and financial institutions.
1962	Commission For Human Rights (Number of Commissioners Increased from Five to Seven)	*Amended to Prohibit* Discriminatory practices in guidance, apprenticeship, on-the-job training or other occupational training or retraining.
1963		*Amended to Include* As a discriminatory practice, retaliation by persons subject to the law against any person because he has opposed forbidden practices or assisted in a Commission proceeding. *Amended to Prohibit* Discrimination in all housing accommodations, public and private, with minor exceptions.
1964		*Amended to Declare* That opportunity to obtain employment without discrimination because of sex is a civil right. *Amended to Include* As an unlawful discriminatory practice the selection of persons for State Registered Apprentice Training Programs on any basis other than objective criteria.

CHART B (*Continued*)

Year	Agency	Coverage
1965		*Amended to Authorize* The Commission to initiate complaints and investigations. *Amended to Include* Discrimination because of sex as an unlawful discriminatory practice in employment and in apprenticeship or other training programs. *Amended to Prohibit* Use of a retirement policy plan as a subterfuge to violate the law. *Amended to:* a) Extend coverage to employees of four or more and to nonprofit organizations, other than certain religious organizations. b) Make violation of conciliation agreements an unlawful discriminatory practice. c) Revise procedures including review by Chairman of no probable cause findings; extension of time to file a complaint from ninety days to one year; power to award compensatory damages; power to seek injunctions in housing cases.
1966	Number of Commissioners Increased from Seven to Nine	
1967		*Amended to Prohibit* Discrimination in volunteer Fire Departments. *Amended to Prohibit* Discrimination by the State, a political subdivision or a school district against an employee because of observance of Holy Days. *Amended to Prohibit* Discrimination because of race, creed, color, national origin or sex in the membership of real estate boards. *Amended to Prohibit* Discrimination because of sex by employment agencies.
1968	Division of Human Rights (One Commissioner)	*Procedural and Structural Changes* Name of law changed from Law Against Discrimination to Human Rights Law. *Amended to Exempt* New York State Civil Service Commission from ban against inquiries re: age, race, creed, color, national origin or sex.
1969		Human Rights Review Board renamed State Human Rights Appeal Board (signed). *Amended to Include* Wholesale establishments as places of public accommodation (awaiting signature).

CHART B (*Continued*)

Year	Agency	Coverage
		Amended to Include "Block Busting" as an unlawful discriminatory practice (awaiting signature). *Amended to Provide* Dispensations to promote minority employment if plans are approved by the Division. *Amended to Permit* New York City Personnel Departments to make racial or ethnic inquiries.

* The term "public accommodations" was originally defined by reference to the Civil Rights Law. It was later amended to set forth a listing of accommodations in 1960. The listing has since been amended, the last amendment by the 1969 Legislature included wholesale establishments.

CHART C

SUMMARY OF COMPLAINTS FILED BY JURISDICTION: 1945-1968

Year	All Jurisdictions	Jurisdiction			
		Employment	Housing	Pub. Acc.	Education & Other
1945	199	188	—	7	4
1946	430	427	—	2	1
1947	380	377	—	—	3
1948	275	275	—	—	—
1949	316	315	—	—	1
1950	256	256	—	—	—
1951	244	244	—	—	—
1952	279	256	—	23	—
1953	243	212	—	31	—
1954	319	289	—	30	—
1955	396	320	—	76	—
1956	573	472	58	43	—
1957	798	650	87	61	—
1958	948	721	111	116	—
1959	933	791	52	90	—
1960	898	651	105	134	8
1961	1,041	669	222	142	8
1962	1,151	612	397	140	2
1963	1,195	650	456	85	4
1964	1,161	609	500	50	2
1965	1,390	761	554	68	7
1966	1,435	727	633	63	12
1967	1,684	1,006	580	90	8
1968	2,333	1,358	817	135	23
Total 1945-1968	18,877	12,836	4,572	1,386	83

CHART D

SUMMARY OF COMPLAINTS CLOSED BY JURISDICTION AND PERCENT PROBABLE CAUSE DETERMINATIONS*: 1945-1968

Year	Determination	All Jurisdictions	Jurisdiction			
			Employment	Housing	Pub. Acc.	Education and Other
1945-1949	Total Closed	1,454	1,436	—	9	9
	% Probable Cause	25.9	26.2	—	—	—
1950-1954	Total Closed	1,321	1,252	—	69	—
	% Probable Cause	22.6	21.2	—	47.8	—
1955-1959	Total Closed	3,026	2,453	280	293	—
	% Probable Cause	21.9	21.2	12.5	37.2	—
1960-1964	Total Closed	5,743	3,569	1,521	629	24
	% Probable Cause	23.5	12.9	41.8	40.2	8.3
1965	Total Closed	1,472	798	586	83	5
	% Probable Cause	21.3	8.5	38.4	25.3	—
1966	Total Closed	1,407	719	624	51	13
	% Probable Cause	25.8	9.0	45.0	33.3	—
1967	Total Closed	1,710	975	629	97	9
	% Probable Cause	24.8	14.5	39.0	38.1	11.1
1968	Total Closed	2,180	1,315	735	115	15
	% Probable Cause	24.4	12.0	45.0	37.4	—
Total 1945-1968	Total Closed	18,313	12,517	4,375	1,346	75
	% Probable Cause	23.6	16.4	40.1	38.1	4.0

* Of 4,320 complaints closed from 1945 through 1968 for which probable cause was found, 3,738 were settled by conference and/or conciliation and 582 were ordered for public hearing.

CHART E

NUMBER OF COMPLAINTS ORDERED FOR PUBLIC HEARING BY JURISDICTION: 1945-1968

Year	All Jurisdictions	Jurisdiction			
		Employment	Housing	Public Acc.	Education and Other
1945-1949	1	1	—	—	—
1950-1954	7	5	—	2	—
1955-1959	76	52	12	12	—
1960-1964	66	21	42	3	—
1965	33	4	29	—	—
1966	92	16	75	1	—
1967	109	37	70	2	—
1968	198	64	128	6	—
Total 1945-1968	582	200	356	26	—

CHART F

DISCRIMINATION COMPLAINTS FILED BY JURISDICTION, 1945-1968

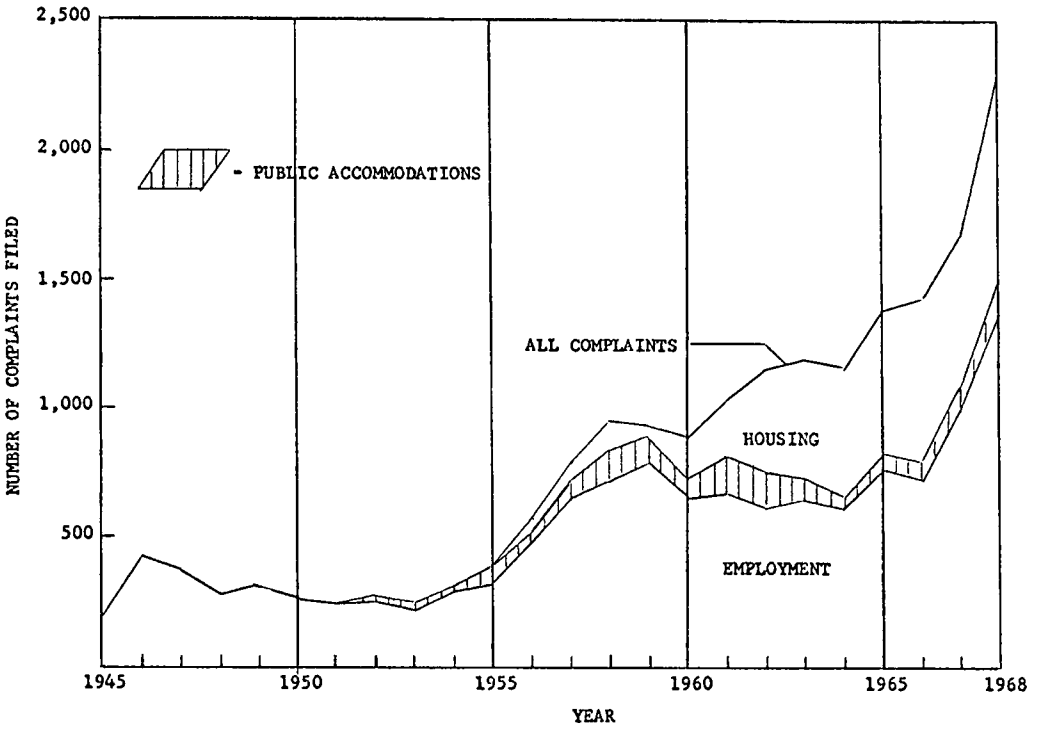

CHART G

RACIAL AND ETHNIC DISTRIBUTION: STATE TOTALS

Racial and Ethnic Group	Total		Male		Female	
	n	%	*n*	%	*n*	%
Caucasian	106,438	85.6	63,954	51.5	42,484	34.2
Negro	15,395	12.4	6,054	4.9	9,341	7.5
Puerto Rican	1,681	1.4	972	0.8	709	0.6
Other	778	0.6	355	0.3	423	0.3
Department Totals	124,292	100.0	71,335	57.5	52,957	42.6

CHART H

PERCENTAGE DISTRIBUTION BY OCCUPATIONAL CATEGORY FOR EACH ETHNIC GROUP OTHER THAN CAUCASIAN AND FOR ALL NEW YORK STATE EMPLOYEES

Occupational Category	Negro	Puerto Rican	"Other"	Statewide Total Including Caucasian
Laborers	2.9%	7.4%	2.6%	5.4%
Data Processing	0.1	0.0	0.1	0.3
Service Workers	60.3	56.1	26.0	28.1
Protective Service	3.9	2.1	0.6	7.5
Operators	2.3	5.9	1.8	4.1
Clericals	15.7	12.6	6.3	21.5
Craftsmen	1.2	4.5	0.6	4.8
Technicians	1.1	1.5	15.3	3.1
Investigators and Inspectors	0.9	1.1	0.4	2.4
Administrators & Professionals	11.6	8.9	46.3	22.8
Totals	100.0%	100.0%	100.0%	100.0%

CHART I

PERCENTAGE DISTRIBUTION BY JOB STATUS OF EACH ETHNIC GROUP OTHER THAN CAUCASIAN NEW YORK STATE EMPLOYEES

Job Status	Negro	Puerto Rican	"Other"	Total Including Caucasian
Competitive Permanent	82.0%	74.0%	74.0%	72.6%
Competitive Other	5.0	4.5	2.5	4.5
Non-Competitive	8.5	17.4	17.6	13.7
Exempt	0.8	1.4	0.0	1.7
Labor	3.5	2.5	1.3	4.6
Unclassified	0.0*	0.0	0.0	0.0*
Other Classes**	0.2	0.2	4.6	2.9
	100.0%	100.0%	100.0%	100.0%

* Less than 0.05%.

** Represents those employees not under Civil Service Rules and Regulations.

CHART J

City	Total Number of Projects	Average % Negro	Number Imbalanced	Imbalanced Units
Buffalo	15	22%	10	4,080
Elmira	3	20%	3	463
Freeport	2	70%	2	150
Newburgh	2	55%	2	196
Niagara Falls	4	54%	3	400
Port Chester	5	35%	5	420
Poughkeepsie	2	62%	2	284
Rochester	3	86%	2	154
Rome	2	10%	2	279
Syracuse	6	43%	4	1,303
Troy	6	31%	6	1,255
Utica	7	31%	6	890
Yonkers	8	20%	5	854
TOTAL	65		52	10,115

To summarize: Of the 100 public housing projects in New York State, exclusive of New York City, where a reasonably designed assignment policy could have resulted in balanced or integrated occupancy, slightly over half (52) are imbalanced. These 52 imbalanced projects contain 10,115 occupied units which represent 41% of all occupied public housing units (24,829) in New York State as of January 1, 1968, exclusive of New York City.

CHART K
PUBLIC HOUSING

City	Total Number of Projects	Average % Negro
Albany	6	25%
Auburn	2	14%
Binghamton	3	6%
Glen Cove	2	82%
Kingston	2	8%
Lackawanna	2	63%
Middletown	2	29%
New Rochelle	3	88%
North Hempstead	4	85%
Peekskill	2	25%
Schenectady	5	6%
Tarrytown	2	60%